

DENNIS J. KUCINICH
10TH DISTRICT, OHIO

2445 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
(202) 225-5871

14400 DETROIT AVENUE
LAKEWOOD, OHIO 44107
(216) 228-8850

PARMATOWN MALL
7904 DAY DRIVE
PARMA, OH 44129
(440) 845-2707



Congress of the United States
House of Representatives
www.kucinich.house.gov

CHAIRMAN,
SUBCOMMITTEE ON DOMESTIC POLICY

COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM

COMMITTEE ON EDUCATION AND LABOR

Opening Statement
Dennis Kucinich
Chairman
Domestic Policy Subcommittee
“DOL’s Performance In Investigating and Prosecuting Wage and Hour
Violations And Protecting Guest Workers”
Monday October 29, 2007
Loyola Law School, Room 308

Good afternoon and welcome.

This hearing continues an investigation that began earlier this year into the adequacy of labor law enforcement in New Orleans during the period following Hurricane Katrina.

In the aftermath of Hurricane Katrina, President Bush issued a number of executive orders to suspend labor laws and documentation requirements. These included the suspension of the Davis-Bacon Act and the suspension of Affirmative Action requirements. The Bush Administration suspended regular enforcement of Occupational, Safety, and Health Administration standards, and Department of Homeland Security documentation requirements.

At the same time, the federal government pumped billions of dollars of no-bid, cost-plus contracts into the Gulf Coast and into the hands of contractors. The need for urgent reconstruction and clean-up coupled with federal funds attracted thousands of workers from within the United States and abroad.

The conditions constituted a serious challenge to the DOL in New Orleans. As Mr. Paul DeCamp said in his testimony, “the final challenge is unlike anything WHD has experienced previously. The infusion of federal assistance into the region and the need for an immediate response to the environmental conditions in the area resulted in multiple layers of subcontracting and blurred lines of employer accountability.” As the federal cop on the workplace safety, wages, and hours beat, the Department of Labor would have to respond to the needs of a worker population unique to the Gulf Coast in an environment marked by a national catastrophe without precedent.

The DOL’s Wage and Hour Division was responsible for investigating and prosecuting the labor law violations in the region. It appears that, with inadequate resources, the task was too daunting

for the DOL. In the absence of aggressive enforcement, crimes against workers increased. Meanwhile, the number of DOL investigations in New Orleans decreased. Consider that the number of investigations dropped from 70 in the year before Katrina to 44 in the eleven months after Katrina.

Where was Sherriff Labor when workers needed her most?

Mr. Jeffrey Steele was never paid for the hours he worked. He filed a complaint with the DOL in September 2006. Nothing happened. Finally five months later after making numerous inquiries, a DOL investigator contacted Mr. Steele. Another month and a half lapsed before an investigator called Mr. Steele to ask for more information that, as an investigator, she should have found herself. Two months more lapsed before the investigator called Mr. Steele again. Not surprisingly, fearing bad publicity, this phone call came 6 days before his testimony at our June 26th hearing. And now, four months later, after receiving national media attention Mr. Steele's case has still not progressed. Mr. Steele will testify today about his case's status. I ask, if Mr. Steele who went to the DOL more than a year ago and whose case received national media attention, has not been adequately served, then what can be said about similarly situated workers who haven't received national attention and worse, who can't even communicate with the DOL?

The stories of violations are abundant. We will hear a number of them today. We seek to understand what the DOL did well, what it did poorly and what it failed to do on behalf of workers in the aftermath of Hurricane Katrina. And now, more than two years **after** Hurricane Katrina struck the Gulf Coast, we want to know what **we** can do to protect the workers who came to clean and rebuild its cities.

We already know what some of the problems are. Part of the problem seems to be that the DOL was slow to adapt to the need and to respond to labor abuses against a new immigrant population. For instance, our investigation revealed that the New Orleans District Office took one year and four months after the hurricanes to hire a new Spanish-speaking investigator, bringing the **total** capacity to 2.

Nearly two years later, out of 12 investigators, only 3 are Spanish-speaking. At least for workers from Guatemala and Mexico, there is a chance of being helped. In contrast, the workers from Brazil, do not have much of a chance because they haven't even had a Portuguese-speaking investigator since last December.

Part of the problem seems to reside with the Washington, DC DOL office. After the hurricanes deprived hundreds of thousands people of their homes, including most if not all of the staff and investigators of the New Orleans DOL office, what supplemental support did the Washington office provide? Our inquiry reveals that Washington sent the first detailed employee to help, for a period of two weeks, nearly three months after the hurricanes.

At our June 26th hearing, Mr. Paul DeCamp, DOL Wage and Hour Administrator, explained that the District Office did not hire more staff because labor law violations in New Orleans constitute a "temporary bubble," albeit a "significant bubble in terms of violations and in terms of workload in the Gulf Coast and in New Orleans in particular" that will last for the next two to

five years. What did Mr. DeCamp think would pop this bubble? The resolution of all the labor law claims? The completion of clean-up and reconstruction in New Orleans? The expiration of the statute of limitation on claims that arose in the aftermath of the hurricanes? We hope Ms. Barbara Hicks can help us answer that question today.

Part of the problem seems to be the administration of the law. Guest workers, who come to work in the U.S. on H2-B visas, are susceptible to other labor violations as well. Often times, after paying a fee for their visa, after paying for a plane ticket, as well as a substantial fee to the labor broker who invited them to work in the United States, they arrive in the U.S. only find that there is no work for them. In many cases, they are subjected to horrible living conditions, non-payment for overtime, and non-payment at all. In the worst case, these guest workers have their passports and visas confiscated by employers rendering them virtual slaves at the hands of someone who used legal means to import them into the U.S.

Take the case of Matt Redd, a New Orleans real estate mogul, and a certified DOL guest worker employer, “legally” trafficked workers and rented those unfortunate migrant workers out to garbage collection companies and restaurants at an hourly wage. According to Mr. Saket Soni and Mr. Jacob Horowitz, the Alliance of Guest Workers for Dignity attempted their own citizens’ arrest of Redd to retrieve their documents and subsequently protested in front of the DOL office to pressure it to protect them. As of June 26th, the DOL had done nothing on behalf of those guest workers. Today, a number of them will testify.

The DOL claims that it has little to no authority to act on behalf of the H2-B visa holders. That is only partially true. Unlike statutes protecting agricultural guest workers, or H2-A visa holders, no similar regulations exists to protect non-agricultural guest workers. At present, the DOL is drafting new H2-B regulations. This marks a significant opportunity for the DOL to serve the non-agricultural guest worker population; a population that is working to rebuild one of our most beloved cities, New Orleans. I encourage the DOL to use this opportunity to provide more protection, and not less, to H2-B visa workers.

But it is important to remember that, irrespective of the minimal statutory protections, the DOL WHD still has the authority and the responsibility to prosecute employers for violations of the Federal Labor Standards Act and the Davis-Bacon Act, even when the victims are H2-B holders.

The interplay of labor law suspensions, an influx of workers, huge contractors, and non-enforcement of labor law created an environment, according to some of our witnesses, of virtual lawlessness in New Orleans. An environment they have described to us as the “wild wild west.”

Today, I hope we can continue our inquiry to better understand why and how this occurred.